

(7)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

O.A. No. 375/89
~~XXXXXXXXXX~~

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DATE OF DECISION 3-7-1991

Shri V.B.Thopte Petitioner

Shri S.R.Atre. Advocate for the Petitioner (s)

Versus

Union of India & Ors. Respondent

Shri V.M.Bendre. Advocate for the Respondent (s)

CORAM

The Hon'ble Mr. G.Sreedharan Nair, Vice-Chairman,

The Hon'ble Mr. P.S.Chaudhuri, Member(A).

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal?


 (G. SREEDHARAN NAIR)
 VICE-CHAIRMAN.

(2)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY.

Original Application No.375/89.

Shri V.B.Thopate,
C/o.Shri S.R.Atre,
Block No.15,
1st floor, Pehalajrai Bldg.,
Lohar Lane, Chendani,
Thane - 400 602.

... Applicant.

V/s.

1. Union of India through
The Collector of Central Excise,
Bombay - III, Nav Prabhat Chambers,
Ranade Road, Dadar (W),
Bombay - 400 028.
2. The Deputy Collector (P & E),
Central Excise Bombay - II,
Pisamal Chambers, 9th floor,
Jijibhoy Lane, Lalbaugh,
Parel, Bombay - 400 012.

... Respondents.

Coram: Hon'ble Vice-Chairman, Shri G.Sreedharan Nair,
Hon'ble Member(A), Shri P.S.Chaudhuri.

Appearances:-

Applicant by Mr.S.R.Atre.
Respondents by Mr.V.M.Bendre.

JUDGMENT:-

(Per Shri G.Sreedharan Nair, Vice-Chairman) Dated: 3-7-1991

The applicant an Inspector of Central Excise and Customs Department was proceeded against under the Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 by the issue of a memorandum of charges dt. 14.5.1980. There were three Articles of Charges. For convenience of reference they are extracted hereunder:-

"Article - I

That the said Shri V.B.Thopate, while functioning as Inspector of Central Excise & Customs (Headquarters) Kelva had demanded on 2.10.1979 an amount of Rs.300/- and subsequently reduced to Rs.125/- from Shri Daji Narayan Tandel alias Dhannu as gratification other than legal remuneration for issuing pass for his tory, but at the same time issued the same on that day on the promise given by the complainant to pay the said amount of Rs.125/- within 6 to 8 days.

Shri V.B.Thopate, Inspector C.Ex. & Customs Headquarters Kelva by his above acts committed gross mis-conduct and contravened the rule 3(i)(iii) of Central Civil Services (Conduct) Rules, 1964.

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Article : II

That while functioning as Inspector C.Ex. & Customs Headquarters, Kelva Shri V.B.Thopte, Inspector has demanded and accepted an amount of Rs.125/- from Shri Daji Narayan Tandel alias Dhanu in his office at Kelva on 9.10.1979.

Shri V.B.Thopte, Inspector of Central Excise and Customs Headquarters, Kelva by his above acts committed gross mis-conduct and contravened the Rule 3(1)(iii) of Central Civil Services (Conduct) Rules, 1964.

Article : III

That the said Shri V.B.Thopte, while functioning as Inspector C.Ex. & Customs Headquarters, Kelva after accepting the said amount of Rs.125/- from the complainant took to his heels from his office-cum-residence after noticing the advent police officials at the Customs House and did away with the said amount before he could be apprehended.

Shri V.B.Thopte, Inspector Central Excise & Customs by his above acts committed gross mis-conduct and contravened the rule 3(1)(iii) of CCS(Conduct) Rules, 1964."

2. The applicant denied the charges. An inquiry was conducted by the order dt. 19.9.1983. The second respondent, the Disciplinary Authority imposed upon the applicant the penalty of withholding of one increment without cumulative effect for contravention of provisions of Clause (iii) of Sub-rule (1) of Rule 3 of the CCS(Conduct) Rules, 1964. The applicant preferred an appeal before the Appellate Authority. It was rejected by the order dt. 11.5.1988.

3. The applicant has prayed for quashing the order imposing the penalty and for consequential benefits. It is urged inter alia that the applicant has been found guilty of a charge which was not there in the memorandum of the charges and that the order imposing the penalty has been issued merely on the basis of suspicion and not on evidence.

4. The respondents have filed reply resisting the application.

5. After hearing counsel on either side we have the least hesitation to hold that the impugned orders cannot be sustained.

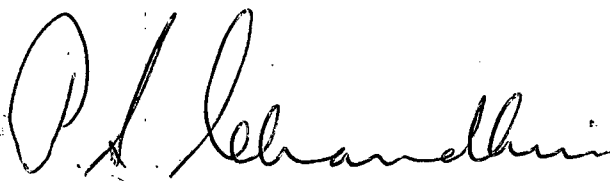
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6. We have extracted the Articles of Charges more with a view to highlight that both the Inquiry Officer as well as the Disciplinary Authority have held that Articles I and II of the memorandum of charges are not proved and consequently that part of the charge in Article III that the applicant had done away with the bribe amount of Rs.125/- also fails. However, on the ground that there is no reasonable explanation from the applicant for running away from his place of duty on seeing the C.B.I. Officers it was held that the applicant behaved in a manner unbecoming of a Government servant and based on the same the penalty was imposed. A cursory reading of the imputations contained in Article III of the memorandum of charges makes it clear that the imputation related to doing away with the amount of Rs.125/- which is alleged to have been demanded and accepted from one Tandel. When the imputation regarding the demand and acceptance of the amount has been found not to be true, the imputation under Article - III no longer will survive. At any rate the applicant was not proceeded against for running away from his place of duty.

7. We are satisfied that the finding of the Disciplinary Authority is perverse and based on mere suspicion, so as to warrant interference.

8. The application is allowed. The order of the Disciplinary Authority dt. 19.9.1983 as confirmed by the order of the Appellate Authority dt. 11.5.1988 is hereby quashed. The applicant shall be allowed the consequential benefit of the same within a period of 3 months from the date of receipt of this order.

9. The application is ^{disposed of} ~~allowed~~ as above.



(P.S. CHAUDHURI)
MEMBER (A)

3-7-1991


3.7.1991
(G. SREEDHARAN NAIR)
VICE-CHAIRMAN.